

### **REMARKS**

The Final Office Action mailed June 12, 2009 and the references cited therein have been carefully considered. Claims 1-13 and 15-25 are now pending in the application, although Claims 1-10 have been withdrawn from consideration. It should be noted that while the subject Office Action Summary only indicates Claims 11-13 and 15-25 are pending, claims 1-10 have not been formally cancelled from the application by Applicant.

By this Response, Claims 11-13 and 15-27 have been amended. Claims 11-13 and 15-27 have been amended to clarify aspects of the invention recited therein and particularly point out and distinctly claim that which Applicant regards as those aspects of the invention.

- With regard to Claim 11, the amendments included in the first five lines re-arrange and clarify the existing claim language. Support for the expression, “wherein in the closed condition at least one peripheral edge of the first closing part engages an opposed at least one peripheral edge of the second closing part,” can be found for example in Figs. 5-8 and 11-13, the specification at page 7, first full paragraph, as well as more generally throughout the claims, specification and drawings. Support for the expression, “wherein the at least one hinge connects at least a portion of the first slightly curved peripheral edge to at least a portion of the second slightly curved peripheral edge,” can be found for example in the specification at page 8, first full paragraph, as well as more generally throughout the claims, specification and drawings.
- With regard to Claim 12, the amendments included in the first six lines re-arrange and clarify the existing claim language. Support for the expression, “the closing parts substantially surrounding an outer periphery of the cover parts in an open position,” (also

included in Claim 17 and 19) can be found for example in Fig. 9, as well as more generally throughout the claims, specification and drawings.

- With regard to Claim 16, the amendments included in the first three lines re-arrange and clarify the existing claim language. Also, the verbiage included in lines 4-10 is similar to that found in Claims 11 and 12. Support for the expression, “whereby each of the packages includes a surface contour formed by the at least one mold cavity, the surface contour being common to the other packages of the series,” can be found for example in Fig. 1, for example the contours of the mold surfaces in the first mold part 18, as well as more generally throughout the claims, specification and drawings.
- With regard to Claim 17, the amendments included in the first three lines are similar to those of Claim 16. Also, the verbiage included in lines 4-6 and 10-11 is similar to that found in Claims 11 and 12. Support for the expression, “the at least one hinge common to each of the packages of the series of packages,” can be found for example in Fig. 1, such as the contours of the mold surfaces in the first mold part 18, as well as more generally throughout the claims, specification and drawings.
- With regard to Claim 18, the amendments included much of the same verbiage as the previously mentioned with regard to the claims above. Additionally, support for the expression, “suspension means are formed in different locations of at least some of the packages,” can be found for example in Fig. 2, as well as more generally throughout the claims, specification and drawings.
- With regard to Claim 19, the amendments included much of the same verbiage as the previously mentioned with regard to the claims above.

The further amendments to the claims are introduced to maintain consistency and antecedent basis throughout the claims. Thus, no new matter has been added by the amendments to the claims. Applicants specifically respond below to the issues raised in the subject Office Action.

#### **Applicants' Interview Summary**

Applicant appreciates and acknowledges the telephone interview conducted on October 14, 2009 between Examiner Jacob K. Ackun and the undersigned discussing the outstanding prior art rejections in view of proposed amendments. The amendments proposed at that time were substantially the same as the amendments presented herein, with only two notable exceptions. The first exception being that the present amendments more consistently use the expression the "hinge" or the "at least one hinge", and remove the use of "hinge means." The second exception is that the phrase "break lips or such weakening means" is amended to simply read "break lips." In accordance with discussion had during the interview, it is understood that by "break lips" Applicant refers to a weakened structure, for example shown in Fig. 9 and with further exemplary alternatives described in the specification at page 11, first full paragraph. Accordingly, Applicants hereby introduce the proposed amendment to the claims.

During the interview, it was agreed that the proposed claim amendments overcome the pending section 112, second paragraph rejections. Additionally, it was agreed that the proposed amendments overcome the pending prior art rejections. In this regard various aspects of the claims were discussed and differentiated from the cited prior art. For example, the recitation that "in the closed condition at least one peripheral edge of the first closing part engages an opposed at least one peripheral edge of the second closing part, substantially an entire longitudinal extent of said engaging peripheral edges being slightly curved, wherein the at least one hinge connects at least a portion of the first slightly curved peripheral edge to at least a portion of the second slightly curved peripheral edge," as recited in Claim 11, is not

shown or reasonably suggested by the cited prior art. Additionally, the recitation that “cover parts are connected to the closing parts via break lips such that after opening the package, the sub-package can be broken from the closing parts and is suitable as take-away package for at least one product packaged in the package, the closing parts substantially surrounding an outer periphery of the cover parts in an open position,” as recited in the Claim 12, is not shown or reasonably suggested by the cited prior art. Further, those same recitations in combination with the further limitations of dependent Claims 16-19 are not disclosed or reasonably suggested by the cited prior art. The Examiner did reserve the right to conduct a further prior art search with regard to the amended claims.

**Claim Rejections under 35 USC § 112**

In the Office Action, Claims 16-19 and 22-27 have been rejected under 35 USC § 112, second paragraph, as being indefinite because they are drawn to a series of packages but are further limited with reference to features of a mold and it is unclear how the mold features are intended to further limit the series of packages. Applicant has amended Claims 16-19 and 22-25 to clarify that which Applicant regards as those aspects of the invention. In accordance with the discussions during the recent telephone interview noted above, this rejection is rendered moot. Accordingly, Applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C § 112, second paragraph.

**Claim Rejections under 35 USC §§ 102(b or e) and/or 103(a)**

In the Office Action, Claims 11-13 and 15-27 are rejected in the alternative under 35 U.S.C. § 102(b or e) as being anticipated and/or under 35 U.S.C. § 103(a) as being obvious over any one of the following references: U.S. Published Patent Application No. 2006/0000738 to Kumakura et al. (**Kumakura**); U.S. Patent No. 4,415,084 to Hauser et al. (**Hauser**); U.S. Patent No. 6,871,742 to Paik (**Paik**); and U.S. Patent No. 6,276,529 to Freehan Jr. (**Freehan Jr.**) alone or in combination with

Applicant's own disclosure of the prior art. In accordance with the further discussions during the recent telephone interview noted above, this rejection is also rendered moot. Accordingly, Applicant requests reconsideration and withdrawal of the rejections under 35 U.S.C §102(b or c) and/or §103(a).

**Conclusion**

Entry of the amendments herein and favorable consideration of Claims 11-13 and 15-27 are hereby solicited. In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A Notice to this effect is respectfully requested. If the Examiner has any questions or suggestions to expedite allowance of this application, he is cordially invited to contact Applicants' attorney at the telephone number provided.

Respectfully submitted,

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